

Sideman-Kingsbury 1/19/30

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-208296

DATE: August 3, 1982

MATTER OF: Nor-Cal Security

DIGEST:

1. Absent a specific licensing requirement in a solicitation, the lack of a particular license is not a bar to contract award.
2. Absent finding of nonresponsibility, a below-cost bid does not bar contract award.

Nor-Cal Security protests the proposed award of a contract for security services by the General Services Administration to Modern Security Services under solicitation No. PBS-9PPB-82-0055. Nor-Cal, the third low bidder, charges that Modern Security Services has no "guard and patrol" license as allegedly required by the solicitation and by the State of California. Nor-Cal charges, in addition, that Modern Security Services' bid is below cost, and that the second low bidder is not responsible. We dismiss the protest.

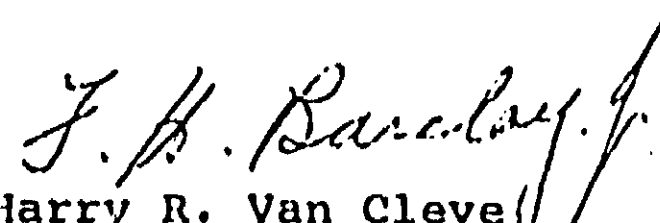
Modern Security Services' alleged lack of a California license does not preclude award to the firm. We have been informally advised by the agency that the solicitation did not specifically call for a California license. It contained only a general provision requiring compliance with state and local licensing requirements. Compliance with a general licensing requirement, unlike compliance with a requirement for a particular license, is not a matter that the contracting officer must consider prior to making an award. John Baker Janitorial, Inc., B-206292, February 22, 1982, 82-1 CPD 157. Rather, the matter is one for resolution between the applicant and state or local authorities. Edmonds Mechanical Contractor, Inc., B-206194, February 4, 1982, 82-1 CPD 96.

Nonetheless, if the contracting officer has reason to believe that an unlicensed bidder's performance is likely to be frustrated by the enforcement of state or local licensing requirements, he may find the bidder nonresponsible. Vernon Moving & Storage Co., B-198644, October 9, 1980, 80-2 CPD 262. If, however, the contracting officer makes an affirmative determination of responsibility, this Office will review the decision only under two circumstances: when the protester alleges fraud or bad faith on the part of procuring officials or when the solicitation contains definitive responsibility criteria which have not been applied. Pacific Consolidated Services, Inc., B-204781, March 10, 1982, 82-1 CPD 223. A general licensing requirement does not impose a definitive responsibility criterion. Definitive responsibility criteria are specific, objective factors identified as prerequisites to an award. Pacific Consolidated Services, Inc., supra.

The protester also charges that the potential awardee's bid is below cost. However, a below-cost bid does not constitute legal grounds for precluding a contract award, when the contracting agency has made no finding of nonresponsibility. Biospherics, Inc.--Reconsideration, B-203419.4, March 16, 1982, 82-1 CPD 246.

Finally, Nor-Cal charges that Pacific Globe, the second low bidder, is nonresponsible. The contracting officer will consider Pacific Globe's responsibility, however, only if Modern Security Services is eliminated from the competition. If that happens, and Pacific Globe is found responsible, we will not review the matter except in the circumstances stated above.

The protest is dismissed.

For 
Harry R. Van Cleve
Acting General Counsel